

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 21, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MAY 17, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1544

Introduced by Senator Migden
(Coauthor: Assembly Member Goldberg)

February 23, 2006

An act to add Section 806 to the Evidence Code and to add Section 686.3 to the Penal Code, relating to criminal investigations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, as amended, Migden. Criminal investigations: eyewitness identification: lineups.

Existing law does not regulate how law enforcement officials prepare or conduct eyewitness photo or live lineup identifications.

This bill declares legislative intent that law enforcement officials study and consider adoption of policies and procedures regulating eyewitness lineup identifications so as to ensure a decrease in the number of misidentifications.

This bill would require the Department of Justice and the Commission on Peace Officer Standards and Training to develop guidelines ~~in-conjunction~~ *consultation* with local law enforcement

agencies, prosecutors, defense attorneys, and other legal experts, as specified, in order to ensure the reliability of eyewitness photo and live identifications, as specified.

Existing law allows opinion testimony from expert witnesses to be admitted at trial upon specified showings.

This bill would allow expert testimony regarding the reliability of an eyewitness identification to be admitted at trial if the proponent of the evidence establishes relevancy and proper qualifications of the witness.

Because this bill requires local agencies to adopt new guidelines, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 806 is added to the Evidence Code, to
2 read:

3 806. Consistent with existing law, expert testimony may be
4 admitted regarding factors that affect the reliability of eyewitness
5 identification if the proponent of the evidence establishes
6 relevancy and proper qualifications of the witness.

7 SEC. 2. Section 686.3 is added to the Penal Code, to read:

8 686.3. (a) The goal of a law enforcement criminal
9 investigation is to find and apprehend the person or persons
10 responsible for committing a crime.

11 (b) A comprehensive body of peer-reviewed studies of
12 eyewitness identification procedures indicate that the criminal
13 justice system can improve the accuracy of eyewitness
14 identifications by implementing changes to identification
15 procedures.

1 (c) Improving the accuracy of eyewitness identifications will
2 increase public trust in the criminal justice system.

3 (d) Policies and procedures such as those recommended by the
4 National Institute of Justice and the California Commission on
5 the Fair Administration of Justice are readily available and have
6 proven effective in other jurisdictions.

7 (e) It is the intent of the Legislature that law enforcement
8 officials study and consider adoption of new policies and
9 procedures similar to those recommended by the National
10 Institute of Justice and the California Commission on the Fair
11 Administration of Justice in order to ensure that eyewitness
12 identification procedures in California minimize the chance of
13 misidentification of a suspect.

14 (f) On or before July 1, 2007, the Department of Justice, and
15 the Commission on Peace Officers Standards and Training, in
16 ~~conjunction~~ *consultation* with local law enforcement agencies,
17 prosecutors, defense attorneys, and other legal experts, including
18 representatives of the California District Attorneys Association,
19 the Los Angeles District Attorney, the California Public
20 Defenders Association and the California Attorneys for Criminal
21 Justice, shall develop guidelines for policies and procedures with
22 respect to collection and handling of eyewitness evidence in
23 criminal investigations by all law enforcement agencies operating
24 in California. These guidelines shall be developed to ensure
25 reliable and accurate suspect identifications and shall be
26 consistent with the reliable evidence supporting best practices,
27 including consideration of the recommendations of the California
28 Commission on the Fair Administration of Justice. All law
29 enforcement agencies shall adopt the guidelines by December 31,
30 2007.

31 SEC. 3. If the Commission on State Mandates determines
32 that this act contains costs mandated by the state, reimbursement
33 to local agencies and school districts for those costs shall be
34 made pursuant to Part 7 (commencing with Section 17500) of
35 Division 4 of Title 2 of the Government Code.

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